

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

ASPEN AMERICAN INSURANCE	)	
COMPANY, as Subrogee of Trinity	)	
Health Corporation, and TRINITY	)	
HEALTH CORPORATION	)	
	)	
Plaintiffs,	)	
	)	Civil Action No. 3:22-CV-0044-JD-MGG
v.	)	
	)	
BLACKBAUD, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF, ASPEN AMERICAN INSURANCE COMPANY’S MOTION TO JOIN IN  
PLAINTIFF, TRINITY HEALTH CORPORATION’S REPLY BRIEF FILED IN  
SUPPORT OF MOTION TO REMAND**

COMES NOW, Plaintiff, Aspen American Insurance Company<sup>1</sup> (“Aspen”), by and through its undersigned counsel, and respectfully moves to join the Reply Brief Filed in Support of Motion to Remand filed by Plaintiff, Trinity Health Corporation (“Trinity”). In support of this Motion, Aspen states as follows:

1. On February 17, 2022, Trinity filed its Motion to Remand this matter to the St. Joseph Superior Court [DE 22] and Brief in Support of Motion to Remand [DE 23].
2. On February 18, 2022, Aspen filed its Motion to Join Plaintiff’s Motion to Remand [DE 25].
3. On March 3, 2022, the Defendant, Blackbaud, Inc. (“Blackbaud”) filed its Brief in Opposition to Plaintiffs’ Motion to Remand [DE 31].

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<sup>1</sup> Since the time that Trinity filed its Motion to Remand [DE 22-23] as well as the filing of Aspen’s Motion to Join in the Motion to Remand [DE 25], the Court Ordered the substitution of Aspen Specialty Insurance Company with Aspen American Insurance Company [DE 30]. As such, Aspen’s Motion to Join the Motion to Remand and this Motion to Join the Reply is on behalf of Aspen American Insurance Company.

4. On March 10, 2022, Trinity filed its Reply Brief Filed in Support of Motion to Remand [DE 33].

5. Within its Reply Brief, Trinity responds to the arguments raised on behalf of Blackbaud and presents that Blackbaud breached the parties' forum selection clause by denying Trinity its right to prosecute its claims against Blackbaud in the St. Joseph Circuit Court [DE 33, III. Conclusion]. Trinity further demonstrates, through the applicable and cited case law, that remand is the proper remedy pursuant to the forum selection clause. *Id.*

6. To the extent that Trinity's insurer, Aspen, is a Subrogee of Trinity for purposes of the prosecution of the claims as well as the rights and remedies in the present litigation, the arguments made in Trinity's Reply Brief equally apply to Trinity's subrogee in these circumstances. An insurer subrogee in a subrogation action has the same lawful claims, rights, and remedies as the insured. *See Farm Bureau Ins. Co. v. Allstate Ins. Co.*, 765 N.E.2d 651, 656 (Ind. Ct. App. 2002). Subrogation under state law allows the insurer to stand in the shoes of its insured. *See Unisys Medical Plan v. Timm*, 98 F.3d 971, 973 (7<sup>th</sup> Cir. 1996).

7. As such, Aspen now moves to join in Trinity's Reply Brief Filed in Support of Motion to Remand (as adopted and incorporated in its entirety herein).

8. Aspen requests that all of the legal arguments raised and presented on behalf of Trinity within Trinity's Reply Brief Filed in Support of Motion to Remand be adopted and incorporated in its entirety in support of this Motion to Join the Reply Brief Filed in Support of the Motion to Remand.

9. Aspen moves this Court that it is allowed to join in Trinity's Reply and further requests that this Court enters an Order which remands this matter to the St. Joseph Circuit Court.

**WHEREFORE**, Plaintiff, Aspen American Insurance Company, respectfully requests that the Court grant its Motion to Join in Plaintiff, Trinity Health Corporation's Reply Brief in Support of Motion to Remand, to further enter an Order which remands the matter to the St. Joseph Circuit Court and for all other proper relief in the premises.

Respectfully submitted,

/s//Michael A. Kreppein

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**CERTIFICATE OF SERVICE**

I hereby certify that on March 10, 2022, a copy of the foregoing document was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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